equitable grounds for the Court to make the order sought.

The shareholders giving notice of their intention, and duly appearing at the hearing, to support or oppose this petition were for all practical purposes, equally divided, except as to 10 shares, which may be ignored. The members of each family aligned themselves according to their respective loyalties.

An affidavit on behalf of those opposing the petition was filed by Ng Kee Wei, to which the petitioner filed an affidavit in reply. It is unnecessary to set out their contents, except to state generally that, in Ng Kee Wei's affidavit, apart from traversing the various allegations contained in the petition and giving an explanation of the relevant circumstances, it was expressed that the petitioner's every reasonable wish would have been and would continue to be met with courtesy and in a co-operative spirit by his associates.

In dismissing the petition at the conclusion of the hearing, I had been, and still am, clearly of the opinion that the two matters which arose in 1957 were the root cause of all the ensuing friction. I felt no doubt that Ng Kee Wei's claim to a special bonus had been made with his father's blessing, and that, when the petitioner felt constrained to voice his opposition, the former congeniality which had subsisted between the two business magnates evaporated under the heat of nothing more calorific than injury to personal self-esteem. Had Ng Chin Siu, or his son, informally breached the subject earlier to the petitioner, over a friendly cup of tea, neither party would have had to take up a position from which any resilement involved an inevitable "loss of face". The proposal, unfortunately, had been made at a Board Meeting, and this difference of opinion had sufficed to cause a rift in the lute. Four months later, the rift was widened by the matter of the choice of a contractor. I shall pass over these two matters by only saying, very briefly, that Ng Chin Siu and Ng Kee Wei had both tacitly acknowledged their want of tact over the matter of the special bonus by dropping the claim, and that, in regard to the jungle-felling contract, had the petitioner condescended to make any genuine attempt to find out whether or not the fancied insult was intended, he could readily have satisfied himself that his allegations of "considerable loss" suffered by the company were exaggerated.

After careful consideration of the affidavits on both sides, I find that all the subsequent complaints by the petitioner flowed from nothing more substantial than pique which he felt over the events of 1957. There were no grounds which could justify what was tantamount to an ultimatum, *vide* the last paragraph in the letter of April 12, 1958, exhibited to the petitioner's affidavit of December 5, 1961 and marked "NEH-1". The reply by the Secretaries, "NEH-2", clarifies the position as seen by a neutral party. Certainly, there were no grounds for "absence of trust". Absence of congeniality could have been, and still can be, overcome. The petitioner had been more unreasonable than co-operative, and any deadlock so-called was one created entirely by himself. I could not, and still cannot believe, that businessmen of the calibre and standing of the petitioner and Ng Chin Siu cannot, if they have to, be large-hearted enough to treat a mutual misunderstanding as if there had never been one.

I had, before the hearing, perused *In re Yenidge Tobacco Company Ltd.* [1], with great care and I have since read it again together with the other authorities cited to me by counsel, and I still am of the opinion that wounded pride on the part of the petitioner over fancied slights could not make it "just and equitable" that I should make the order which was sought. The interests of the shareholders must be considered, and I am not at all satisfied that it would be just and equitable to wind up the company in so far as they are concerned; rather the contrary. Even regarding this private company as a partnership, I had in mind as particularly appropriate what was said in *Lindley on Partnership* (11th Ed.) at p. 692:

> "It must be borne in mind that the Court will never permit a partner by . . . rendering it impossible for his partners to act in harmony with him, to obtain a dissolution on the ground of the impossibility so created by himself."

I felt, as I still do, that the company could carry on with advantage and profit to all its shareholders, and for that reason I had dismissed the petition with costs.

Petition dismissed.

Solicitors: *Eugene Lye & Hoh; Chung & Huang; R. R. Chelliah Bros.*

COMPTROLLER OF INCOME TAX v. R.S.T. (No. 2)

[O.C.J. (Ambrose J.) January 18, 1962]

[Singapore — Summons in Chambers No. 703 of 1961 in Suit No. 488 of 1961]

Income Tax — Notice of assessment under s.86, Income Tax Ordinance (Cap. 166).

Practice and Procedure — Material particulars in statement of claim — What these are in respect of claim under s.86, Income Tax Ordinance.

An action was brought by the Comptroller of Income Tax against the defendant to compel payment of income tax in accordance with section 86 of the Income Tax Ordinance. The defendant, by way of summons in Chambers, asked for an order that the plaintiff deliver to him particulars of certain matters comprised in the claim.

Held: (1) the statement of claim as presented contained all material facts necessary for the purpose of formulating a complete cause of action under section 86 of the Income Tax Ordinance;

(2) as the dates of the notices of assessment referred to in the statement of claim and the dates of service were within the knowledge of the defendant, no additional particulars as to the notices of assessment were necessary to put the defendant on his guard as to the case he had to meet;

(3) the particulars which the defendant was seeking were neither facts necessary to the complete formulation of a claim under section 86 of the Income Tax Ordinance, nor were they necessary to put the defendant on his guard as to the case he had to meet.

SUMMONS IN CHAMBERS.

G. S. Hill for the plaintiff.

K. S. Chung for the defendant.

Ambrose J.: This was a summons asking for an order that the plaintiff deliver to the defendant certain particulars of the claim in this action.

The action was brought by the Comptroller of Income Tax to compel payment of income tax in accordance with section 86 of the Income Tax Ordinance, one month having passed after service of notice of assessment.

It is to be noted that section 86 of the principal Ordinance was amended by section 11 of the Income Tax (Amendment) Ordinance, 1960, and this amendment came into operation on the 1st January, 1960. Section 86 as amended reads as follows:

"Subject to the provisions of section 91 of this Ordinance, tax for any year of assessment levied in accordance with the provisions of section 42 or 43 of this Ordinance shall, notwithstanding any objection or appeal against the assessment on which such tax is levied, be payable at the place stated in the notice given under section 76 of this Ordinance within one month after the service of such notice."

It is also to be noted that section 85 of the principal Ordinance was repealed by section 10 of the amending Ordinance with effect from the same date. Section 85 reads as follows:

"Collection of tax shall, in cases where notice of an objection or an appeal has been given, remain in abeyance until such objection or appeal is determined: Provided that the Comptroller may in any such case enforce payment of that portion of the tax, if any, which is not in dispute."

The statement of claim set out four claims totalling $333,555 for the years of assessment 1950, 1951, 1952 and 1953. By an order of Court dated the 21st July, 1961, leave was granted to the plaintiff to amend the statement of claim. As the amended claims are similar, it is sufficient to set out one of them. The amended claim for the year of assessment 1953 reads as follows:

"4. Year of assessment 1953.

To income tax for the year of Assessment 1953 as *per* Assessment of the Comptroller of Income Tax dated the 15th day of December, 1959, and Demand Note dated the 31st day of October, 1960, $141,185."

The plaintiff withdrew the claim of $30,000 for the year of assessment 1950 on the 10th August, 1961.

The first question I considered was whether the plaintiff had failed to state any material facts in the amended statement of claim, that is, any facts necessary for the purpose of formulating a complete cause of action under section 86 of the principal Ordinance. It seemed to me, at first sight, that one material fact was not stated in respect of each of the claims, namely, that one month had passed since the service of the notice of assessment. But I observed that the amended statement of claim ends with the words:

"Total Balance due under section 86 of the Income Tax Ordinance (Cap. 166), $333,555."

And I took the view that these words amounted to a statement that one month had passed since the service of the notice of the assessment in respect of each of the claims.

The next question I considered was whether I should order the plaintiff to furnish particulars in respect of this material fact as regards each claim. The function of particulars is to fill in the picture of the plaintiff's cause of action with information sufficiently detailed to put the defendant on his guard as to the case he has to meet. In my opinion, the dates of the notices of assessment referred to in the statement of claim and the dates of service were within the defendant's knowledge. It is to be observed that in his affidavit filed in support of his application for particulars the defendant did not state that he had not been served with the notices of assessment. It did not seem to me that any particulars as to the notices of assessment were necessary to put the defendant on his guard as to the case he had to meet.

Apart from the dates of the notices of assessment and the dates of service, the defendant sought particulars of the following matters:

(1) the amount of income chargeable under section 42 or 43 of the Ordinance;

(2) the sources of the assessable income charged with tax and their nature;

(3) the rates at which tax is leviable and payable; and

(4) the manner in which and the dates on which the said chargeable income was received by the defendant as alleged, specifying whether the said income was received by cheques or foreign remittances, and if the latter, giving the names of the banks making and receiving such remittances.

In my judgment, these matters were not material facts, that is, facts necessary for the purpose of formulating a complete cause of action under section 86 of the principal Ordinance; nor were they necessary to put the defendant on his guard as to the case he had to meet.

It is clear from the wording of section 86 of the principal Ordinance that the intention of the Legislature is that tax for any year of assessment levied in accordance with the Ordinance should be paid by the taxpayer within one month after the service of notice of assessment, notwithstanding any objection or appeal against the assessment. It seemed to me that the defendant was merely trying to delay payment of the tax levied and that the proper course for him to take was to pay the tax and present his arguments against the assessments to the Board of Review.

For the above reasons I dismissed the application with costs.

Application dismissed.

Solicitors: *Rodyk & Davidson; Hilborne, Chung & Co.*